

**Spectrum  
Communications**

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September 25, 1995

Office of the Secretary  
Federal Communications Commission  
1919 M Street NW  
Washington, D.C. 20554

Re: Ex Parte Comments in PR Docket 93-144

Dear Sir or Madam:

We are the operator of Trunked SMR facilities WNNM713 and WNXM607. We will be adversely affected by the Commission's intended actions in regard to PR Docket 93-144, if they are carried out as outlined in the meeting conducted by the Wireless Telecommunications Bureau on September 18th. Therefore we respectfully offer the following comments and suggestions.

First, we are strongly opposed to the Commission's proposal to auction spectrum in the 861-866 MHz area, since these frequencies are already heavily licensed and used in most areas. We don't believe it was the intent of Congress that spectrum that is already licensed and used should be auctioned.

Second, we oppose the forcible frequency migration of incumbent licensees in the 200 channel block at 861-866 MHz to make way for "wide-area ESMR" operations for which licenses would be offered on the basis of geographic, demographic, or economic areas. Both we and the members of the public who we serve with our facilities would be very adversely affected by a forced relocation in terms of cost and disruption of service, because every one of the subscriber units would have to be located and reprogrammed for new channels. One requirement for this would be that base transmitters would have to be set up on both the new frequencies and the old frequencies for a time, at least, since it would be impossible to reprogram all subscriber units in less than several days to a week. And who should bear the cost of this? The Commission has not provided guidelines for compensation of operators forced to relocate.

We are also concerned that the relocation may be to frequencies on which our equipment or our customers' equipment are not capable of operating. Therefore the term "comparable spectrum" should be defined as frequencies within the existing 806-821 MHz (mobile) and 851-866 MHz (base) bands. Further, we feel that relocation should not be to other than 800 MHz SMR category channels. We don't believe that, in most markets, there is adequate space within the 851 MHz to 861 MHz area to which to relocate incumbents

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now within the 861-866 MHZ block.

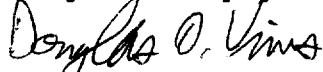
Third, we suggest that the Commission's proposed actions will result in a reduction of competition by favoring a new single operator over existing operators who are already providing a service for which demand has been demonstrated. There would be insurmountable financial barriers of entry into most markets for any but a very few large publicly traded companies. If this effort were attempted in the private arena, such action would violate the anti-trust statutes of the United States. The willful harm to be exacted by the intended rulemaking is no less harmful when it is visited upon the marketplace under the Commission's auction authority.

Fourth, may we suggest that the Commission's interest in reducing its regulatory burden by licensing frequency blocks within geographical areas to single licensees rather than the traditional discreet frequencies at single locations approach might have been spawned by the veritable deluge of applications from a few operators who were granted ill-advised waivers of Rule Parts 90.621(a)(1)(iv) and 90.627 because of a questionable definition of the term "aggregate loading".

Last, we would like to suggest that if the Commission wishes to open up a block of channels to "wide-area ESMR" licensees on a channel block/geographic area basis, it should do so in virgin spectrum, possibly a block of spectrum such as 380-400 MHZ to be released from federal government use by NTIA, rather than in spectrum that is already very heavily used by a relatively spectrum-efficient format.

Since the Commission's intended actions are contrary to its mandate to provide services to the public in a manner which promotes competition and which is neutral in its efforts to collect funds for the U.S. Treasury, we respectfully oppose the announced actions and request the Commission desist from continuing on its present course.

Respectfully yours,



Douglas O. Vines, Pres.  
Spectrum Communications, Inc.

CC: Sen. Slade Gorton  
Rep. Richard "Doc" Hastings